Martin L. Gibbs 1708 Road 52 Pasco, WA 99301 DOCKET FILE COPY ORIGINAL

SECEIVED JUN 1 5 1995

June 11, 1995

The Secretary
Federal Communications Commission
Washington, DC 20554

S.J. W.FLOCK

Reference:

MM Docket 95-71

RM-8632, Amendment of Section 73.202(b)

DA 95-1116 (copy attached)

Dear Secretary,

Please enter into the record with respect to the Notice of Proposed Rule Making, MM Docket 95-71, the following certifications in response to Commission requests:

- 1. I ("Petitioner") am restating that if the referenced proposal is adopted, Petitioner will promptly apply for authority to construct and operate a new FM station at Pasco, Washington. If a construction permit is granted, Petitioner will promptly construct and operate the proposed station.
- 2. Attached is a copy of my original petition submitted by registered mail on April 3, 1995, assigned MM Docket 95-71.

I hereby certify that statements in this document and the attached petition are true and correct to the best of my knowledge and belief, and are made in good faith.

By That & MI	
Mr. Martin L. Gibbs	
1708 Road 52	
Pasco, WA 99301	
Sworn to before me, Sharon Harmon	a
	day of
JUNC, 1995	
My commission expires!/26/59	
	$\boldsymbol{\gamma}$

No. of Copies rec'd_ List A B C D E

Before the Federal Communications Commission Washington, D.C. 20554

MM Docket No. 95-71

In the Matter of

Amendment of Section 73.202(b)
Table of Allotments,
FM Broadcast Stations.
(Pasco, Washington)

RM-8632

NOTICE OF PROPOSED RULE MAKING

Adopted: May 17, 1995;

Released: June 1, 1995

Comment Date: July 24, 1995 Reply Comment Date: August 8, 1995

By the Chief, Allocations Branch:

- 1. The Commission has before it the petition for rule making filed by Martin L. Gibbs ("petitioner"), proposing the allotment of Channel 229A at Pasco. Washington, as the community's third local commercial FM service. Petitioner states his intention to apply for the channel, if allotted.¹
- 2. We believe the public interest would be served by proposing the allotment of Channel 229A at Pasco. Washington, since it could provide the community with an additional FM transmission service. An engineering analysis has determined that Channel 229A can be allotted to Pasco in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.6 kilometers (7.8 miles) southwest to avoid a short-spacing to Station KDRK-FM, Channel 229C. Spokane. Washington. Since Pasco is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been requested.
- 3. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the community listed below, to read as follows:

Channel No.

City

Present

Proposed

Pasco.

Washington

252A, 267C35

229A, 252A, 267C3

Although the petitioner's request was signed, it failed to include an affidavit verifying that the statements contained in the petition were accurate to the best of its knowledge. Section 1.52 of the Commission's Rules requires that the original of any document filed with the Commission by a party not represented by counsel be signed and verified by the party and his/her address stated. In the absence of such verification, the petition may be dismissed. Section 1.401(b) of the Commission's Rules concerning rule making proceedings places petitioners on notice

- 4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.
- 5. Interested parties may file comments on or before July 24, 1995, and reply comments on or before August 8, 1995, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary. Federal Communications Commission, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner, or its course or consultant, as follows:

Martin L. Gibbs
1708 Road 52
Pasco. Washington 99301
(Petitioner)

- 6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments. Section 73.202(b) of the Commission's Rules. See Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, February 9, 1981.
- 7. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau, (202) 418-2180. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

that their proposal must conform with the requirements of Section 1.52 regarding subscription and verification. See also Amendment of Sections 1.420 and 73.3584 of the Commission's Rules Concerning Abuses of the Commission's Processes, 5 FCC Rcd 3911, 3919 n.41 (1990). The petitioner is requested to rectify this omission in his comments.

² The coordinates for Channel 229A at Pasco are North Latitude 46-09-37 and West Longitude 119-13-07.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos Chief, Allocations Branch Policy and Rules Division Mass Media Bureau

APPENDIX

- 1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.
- 2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.
- 3. Cut-off Procedures. The following procedures will govern the consideration of filings in this proceeding.
 - (a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)
 - (b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.
 - (c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.
- 4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate

- of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.
- 5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.
- 6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street N.W., Washington, D.C.

Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.20	2(b)) MM Docke	et
Table of Allotments,) RM	
FM Broadcast Stations)	
(Pasco, Washington))	
		POEIVED
To: Chief, Policy and Rule	s Division	JUN 1 5 1995
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		, Loc.
Section 1.401(a) of the request the Commission to allocate FM Channel 229A to third local FM service.	institute a rule	making proceeding to
Propo	sal of Petitioner	
	<u>Channel Nu</u>	mbers
City	Present	Proposed
Pasco, Washington	252A, 267C3	229A, 252A, 267C3

: 1

In support of this proposal, the following information is submitted for consideration:

- 1. Pasco is an incorporated city located in Franklin County, Washington. The city population is 20,337 and the county population is 37,473 1/. Attached is Exhibit No. 1 which shows the location of Pasco and Franklin County within Washington State. Pasco is the county seat of Franklin County.
- 2. Adoption of this proposal will provide Pasco with its third local FM service, on the table of allotments, under Section 73.202(b). 2/
- 3. If this proposal is adopted, Petitioner will promptly apply for authority to construct and operate a new FM station at Pasco, Washington. If a construction permit is granted, Petitioner will promptly construct and operate the proposed station.
- 4. Attached hereto and made a part of this petition is an Engineering Exhibit in support of the requested allotment. Based on the information contained therein, it appears that the requested channel could be allocated to Pasco, Washington in full compliance with the minimum distance separation requirements of Section 73.207 of the Commission's Rules, with a site restriction as specified in the Engineering Exhibit.
- 5. The proposed change in the table of allotments will not create a short-spacing to any existing station, pending application or vacant allotment and will not require relocation of any station, pending applicant or vacant allotment.

^{1/} Population figures are from the 1990 U.S. Census.

^{2/} Station KOLU (FM) 90.1 MHZ does not appear on the allotment table. KOLU (FM) operates as a non-commercial station.

6. In addition to considering the minimum distance separation required of Section 73.207 the Petitioner has provided in the attached Engineering Study, technical information concerning transmitter location (73.315), and coverage of the most distant City boundary of Pasco, Washington with greater than 70 dBu signal. As shown on technical exhibits, there is ample area in which to locate a transmitter and antenna site which will provide service to the City of Pasco, Washington without request of waivers of the various coverage rules.

WHEREFORE, the premises considered, Mr. Martin L. Gibbs, respectfully request the Commission amend the FM Table of Allotments to reflect the allotment of Channel 229A to Pasco, Washington.

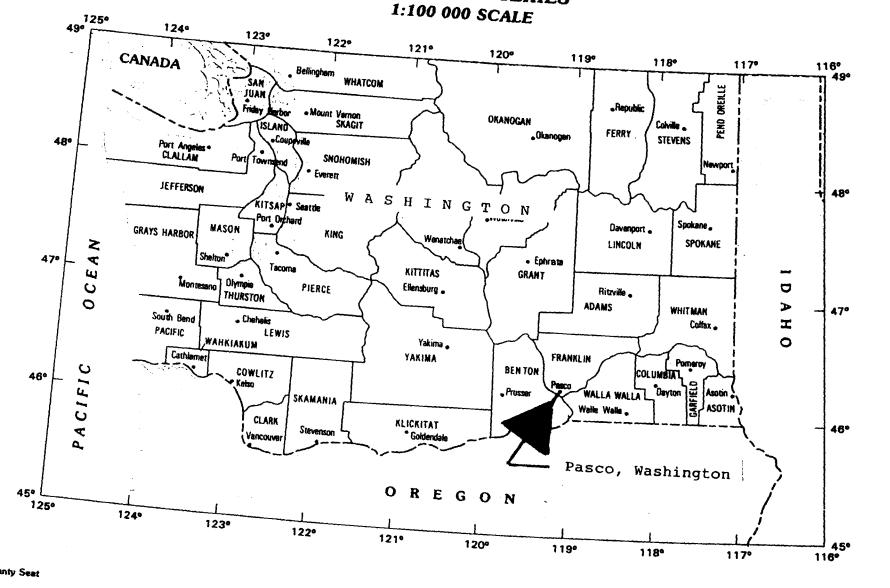
Respectfully submitted,

Mr. Martin L. Gibbs

1708 Road 52 Pasco, WA 99301

(Petitioner)

COUNTY MAP SERIES 1:100 000 SCALE



EXHIBIT

ENGINEERING EXHIBITS

: 1

IN SUPPORT OF
ALLOTMENT OF FM CHANNEL 229A
TO PASCO, WASHINGTON

Mr. MARTIN L. GIBBS (PETITIONER)

KENNETH WILLIAMS, Jr. P.E.

Consulting Engineer

Tacoma, Washington 98407

(206) 756-7544 FAX (206) 752-5145

A PROPOSAL TO ADD FM CHANNEL 229A TO PASCO, WASHINGTON

Mr. Martin L. Gibbs (Petitioner)

The following Engineering data supports a request of Mr. Martin L. Gibbs, of Pasco, Washington to amend the FM table of Allotments in Section 73.202(b) of the Commission's Rules. We are requesting channel 229A be added to the FM Table of Allotments as a drop in channel, to Pasco, Washington.

The addition of FM channel 229A may be made as a drop in channel, without other channels being moved, deleted or changed.

All distance figures used in this report are metric and calculations were, made using methods specified in Section 73.208 of the FCC Rules. All distances were in reference to the restricted site coordinates, Southwest of Pasco. 1/

A complete class A channel study is shown as attached Figure 1 and Figure 2. All channel spacings in these figures are within the Commission's current minimum separation requirements at the petitioner's proposed transmitter and antenna site.

With the use of a restricted site Southwest of Pasco, Washington an Allotment of channel 229A may be made to Pasco, Washington. 1/

The site would place Pasco within the 70 DBU contour, as shown in Figure 5, and will not cause short spacing to existing or proposed stations in the U.S. or Canada.

^{1/} Restricted Site Coordinates: N. 46°08'49" W. 119°12'36" Location 7.7 miles / 12.5 kilometers Southwest of Pasco.

KENNETH WILLIAMS, Jr., P.E. - Consulting Engineer - Tacoma, WA

The proposed service contours of 70 and 60 DBU, were drawn by a plotter driven with the tabulated data shown in Figure 6. Average terrain for the site was determined by the NGDC 30-second data base for the Coordinates of the restricted site. The data shown on Figure 3 are the values of antenna center above mean sea level, average terrain of site and station ERP which were used to construct the coverage map of Figure 5.

Attached Figure 4, shows the area to which the allotment could be made without short spacing to other stations. For the purpose of this petition a ground elevation of 1150 feet (350 meters) was used for the site.

While we are not required to protect FM Translators, we have considered what possible harm may result to these stations if channel 229A is allotted to Pasco. A list of operating Translators are shown as Figure 7. It is apparent due to distance and frequency separationour proposal does not impact any existing or proposed FM Translator operation.

Based in the data at hand it appears channel 229A may be allotted to Pasco, Washington as that community's third local FM service.

ENGINEERS CERTIFICATION

STATE OF WASHINGTON)

) ss

COUNTY OF PIERCE

Kenneth Williams, Jr., P.E., being duly sworn on his oath, states that he is an experienced and qualified Radio Engineer, licensed as a Registered Professional Electrical Engineer in the States of Washington and Oregon and as such maintains an office for the practice of Electrical and Communications Engineering. Having been in continuous practice as a Consulting Engineer for over 31 years, his qualifications are thus a matter of record with the Federal Communications Commission and the Federal Aviation Administration.

The Engineering data herein, was prepared by him or under his direct supervision and all representation of fact contained in said report is based on affiants measurements, information and belief and he believes all such statements herein to be

true and

(Kenneth Williams, Jr., AE.)

(affiant)

ENGINEERS STATE SEAL

Sworn to before me, Jacobin

Journa Jon this

Notary Public of Tacoma, Washington, on this

day of Television 1995

My Commission Expires April 4, 1995.

NOTARY STATE SEAL:

OFFICIAL SEAL
LOU ANN JEAN WILLIAMS
Noting Public State of Whatleying
My Comm. Expires 4-4-05

Reference Coordinates are 7.7 miles / 12.5 kilometers Southwest of Pasco, Washington.

CLASS A FM CHANNEL STUDY ** CHANNEL 229 **

REFERENCE SITE - PASCO, WASHINGTON		N. 46 8 49	W. 119 12 36			
Channel Data Call City		Az-Deg D-Km. R				
226C2 FA VAC Omak	WA		55 192.5 Clear			
227C1 FM LIC KTELFM Walla Walla	WA BLH911202KA	102.4 82.0	75 7.0 Clear			
228A FR DEL Chelan	WA RM8265	345.1 196.1	72 124.1 Clear			
228A FM LIC KOZIFM Chelan	WA BMLH910204KE	345.1 196.1	72 124.1 Clear			
229C FM LIC KDRKFM Spokane	WA BLH7372	45.7 226.5 2	26 0.5 Clear			
229C2 FR ADD East Wenatchee	WA RM8265	327.8 167.5 1	66 1.5 Clear			
230C2 FM APP NEW Ephrata	WA BPH930721MC	351.2 136.0 1	06 30.0 Clear			
230C2 FA VAC Ephrata	WA	348.8 121.7 10	06 15.7 Clear			
230C2 FR DEL Ephrata	WA RM8265	348.8 121.7 1	06 15.7 Clear			
231C FM LIC KCLKFM Clarkston	WA BLH831227AC	78.0 166.0	95 71.0 Clear			
231C FM LIC KMPSFM Seattle	WA BLH890912KB	305.6 259.2	95 164.2 Clear			
Current Rules Spacing						

>>>>> END OF CHANNEL 229 SEARCH <

DISTANCE TO CHANNELS 10.6-10.8 mHz SPACING

FM WITHIN 200 km ** CHANNELS 282 TO 283 **

REFERENCE SITE	- PASCO, WASHINGTON	N. 46 8 49	W. 119 12 36
=======================================	======================================	=========	
CHANNEL CALL & CLASS STATUS	Owner/Applicant (m) (kw) (m) CITY HOTZ->AHAAT/ERP/AMSL STATE FILE No. Vert->AHAAT/ERP/AMSL		(deg) (km) AZIMUTH DIST
104.3 Mhz. 282 Cl KHTR FM LIC	Radio Palouse, Inc. Pullman 509 24.0 1405 WA BLH 870112KB 509 24.0 1405		67.3 191.0
104.5 Mhz. 283 C KMCQ FM LIC	Mid Columbia Broadcasting, Inc. The Dalles 610 100. 998 OR BLH 850916KS 610 100. 998	45-42-41 121- 7- 7	251.9 155.7

>> END OF FM WITHIN 200 km STUDY <<

TERRAIN ELEVATION INFORMATION

NGDC 30-SECOND DATA FROM SITE AT: N. 46° 08' 49" W. 119° 12' 36"

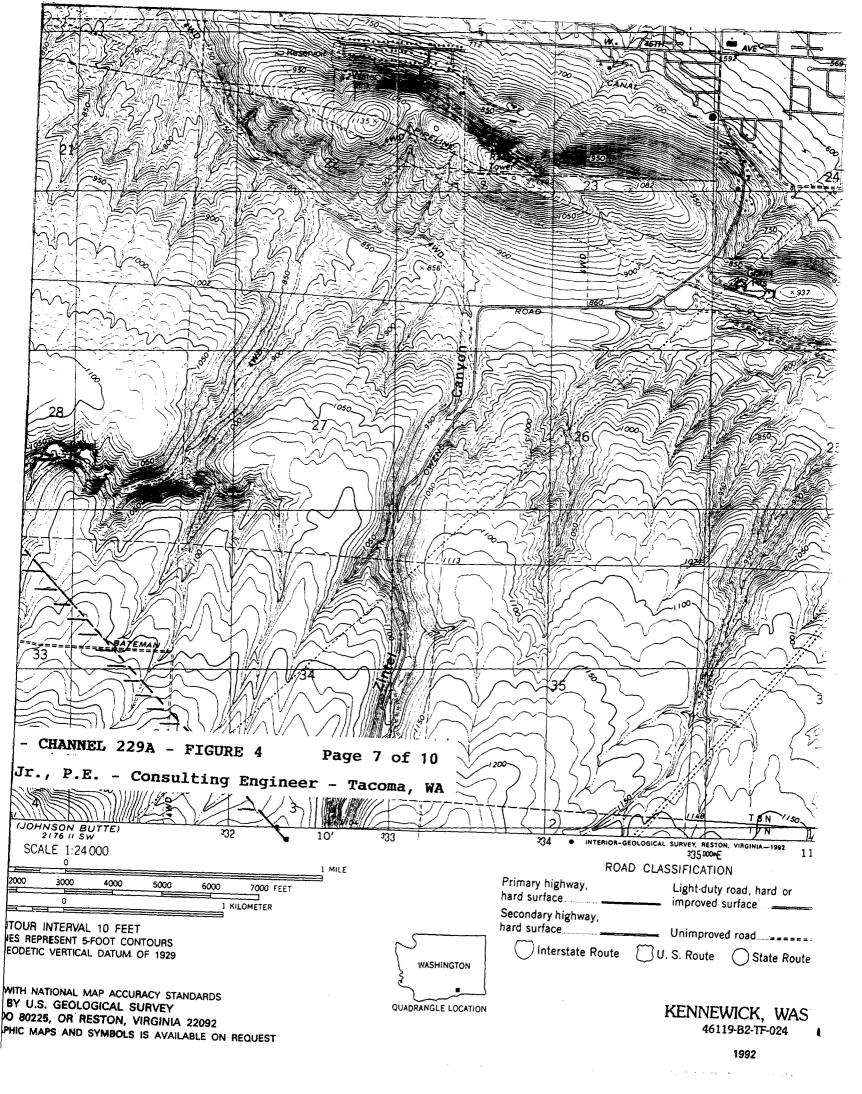
Azimuth in Deg.		levation n meters
.0	16	158.5
45.0	16	146.0
90.0	16	196.1
135.0	16	486.0
180.0	16	411.2
225.0	16	481.3
270.0	16	468.0
315.0	16	258.6
Eight Radial	(3-16 km) Average	325.7 m.
City 26°	16	146.6 *

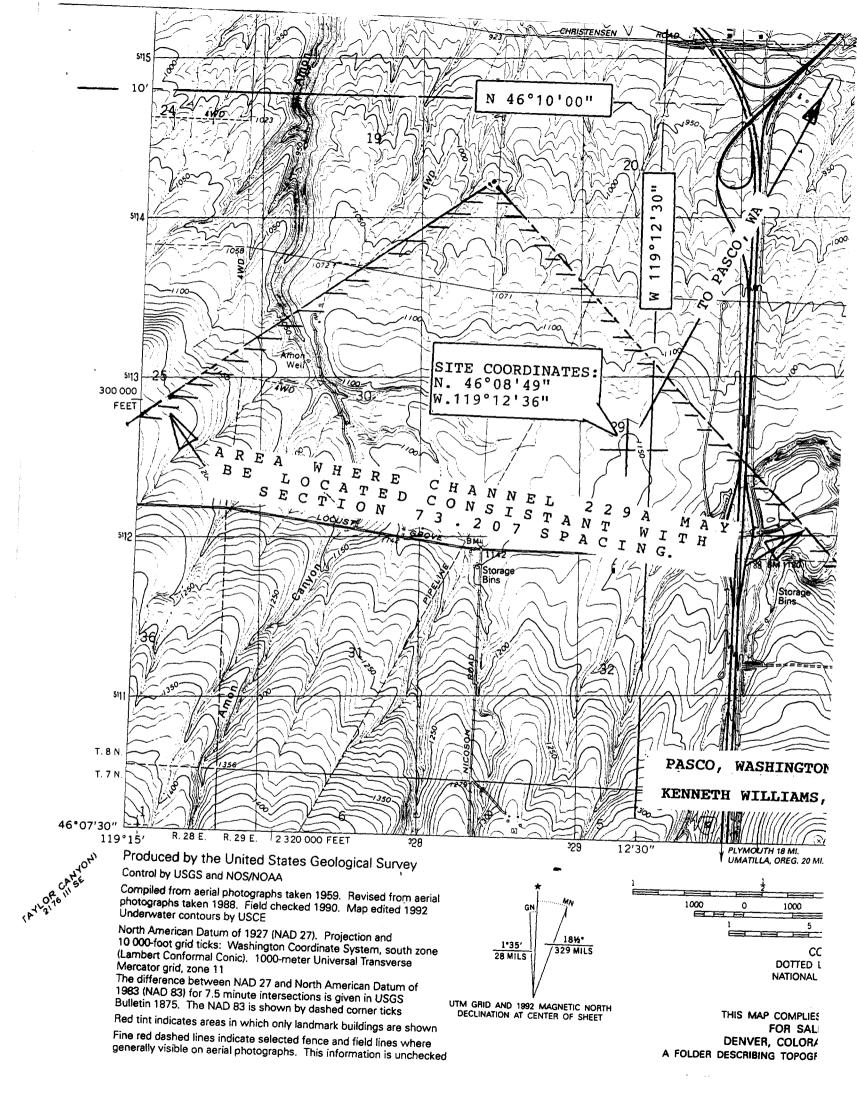
^{*} Not included in average elevation figures.

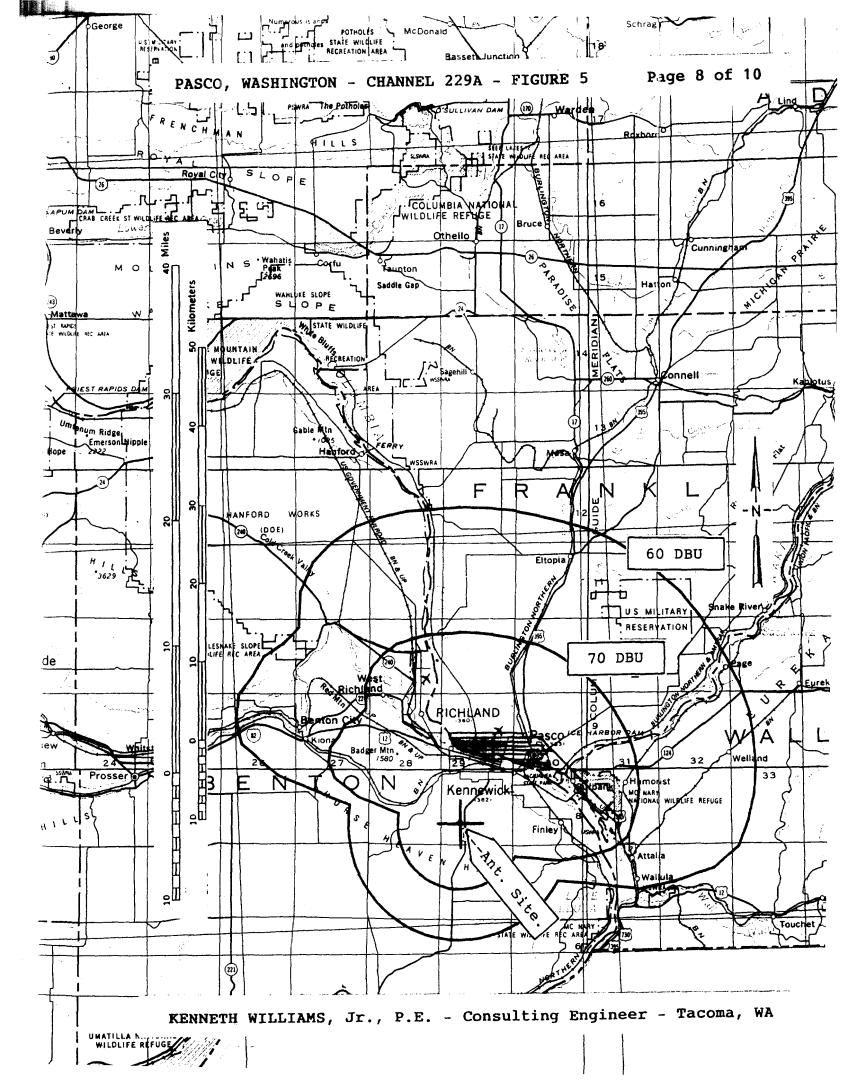
Service Contours are based on the following:

Antenna Center AMSL 420 meters
Average Terrain 325 meters
Antenna HAAT 70 meters
Station ERP in DBK 7.78 DBK (6 KW)

Map of coverage shown as figure 5. Tabulated coverage shown as figure 6.







DISTANCES TO CONTOURS (Kilometers) :

Frequency: 93.7000 MHz

Coordinates: N 46 8 49 W 119 12 36 F(50,50) Curves Number of Contours:

ΑZ	наат	ERP	CONTOU	R LEVELS	(đBu):	ΑZ	наат	ERP	CONTOU	R LEVELS
(degs)	(m)	(dBk)	70.0	60.0		(degs)	(m)	(dBk)	70.0	60.0
	060		24.0	41.0		105.0	18	6.77	8.4	15.0
.0	262	6.77	24.8	41.0		185.0 190.0	10	6.77	8.4	15.0
5.0	262	6.77	24.8	41.0		195.0	7	6.77	8.4	15.0
10.0	263	6.77	24.8	41.1		200.0	3	6.77	8.4	15.0
15.0	263	6.77	24.9	41.1		205.0	-11	6.77	8.4	15.0
20.0	267	6.77	25.0	41.3		210.0	-25	6.77	8.4	15.0
25.0	273	6.77	25.3	41.7		215.0	-36	6.77	8.4	15.0
30.0	274	6.77	25.3	41.8		220.0	-30 -49	6.77	8.4	15.0
35.0	273	6.77	25.3	41.7		225.0	-49 -61	6.77	8.4	15.0
40.0	273	6.77	25.3 25.3	41.7 41.8		230.0	-63	6.77	8.4	15.0
45.0	274	6.77	25.2	41.6		235.0	-74	6.77	8.4	15.0
50.0	271	6.77	25.2	41.6		240.0	-74 -89	6.77	8.4	15.0
55.0	268	6.77	25.0	41.4		245.0	-90	6.77	8.4	15.0
60.0	266	6.77	25.0	41.3		250.0	-85	6.77	8.4	15.0
65.0	267	6.77	24.8	41.3		255.0	-81	6.77	8.4	15.0
70.0	263	6.77	24.5	40.6		260.0	-75	6.77	8.4	15.0
75.0	255	6.77		40.8		265.0	-64	6.77	8.4	15.0
80.0	249	6.77 6.77	24.2 23.7	39.4		270.0	-48	6.77	8.4	15.0
85.0	237 224		23.0	38.5		275.0	-27	6.77	8.4	15.0
90.0		6.77	22.3	37.3		280.0	14	6.77	8.4	15.0
95.0	208	6.77	20.3	34.4		285.0	85	6.77	14.1	25.2
100.0	173	6.77	17.1	29.8		290.0	137	6.77	17.9	31.0
105.0	124	6.77	14.2	25.3		295.0	158	6.77	19.4	33.0
110.0	86	6.77					170	6.77	20.1	34.1
115.0	47	6.77	10.4	18.4		300.0	167	6.77	19.9	33.8
120.0	-3	6.77	8.4	15.0		305.0	171	6.77	20.2	34.2
125.0	-44 CE	6.77	8.4	15.0 15.0		310.0 315.0	161	6.77	19.6	33.4
130.0	-65	6.77	8.4 8.4	15.0		320.0	163	6.77	19.7	33.5
135.0	-66	6.77	8.4	15.0		325.0	205	6.77	22.1	37.1
140.0	-62	6.77	8.4	15.0		330.0	236	6.77	23.6	39.3
145.0	-66	6.77 6.77	8.4	15.0		335.0	253	6.77	24.4	40.4
150.0	-64		8.4	15.0		340.0	264	6.77	24.9	41.1
155.0	-50 -42	6.77 6.77	8.4	15.0		345.0	265	6.77	24.9	41.2
160.0	-42 -32	6.77	8.4	15.0		350.0	265	6.77	24.9	41.2
165.0	-32 -11	6.77	8.4	15.0		355.0	260	6.77	24.7	40.9
170.0		6.77	8.4	15.0		360.0	261	6.77	24.8	41.0
175.0	-1 9		8.4	15.0		200.0	201	0.77	21.0	2400
180.0	7	6.77	0.4	± Э• ∪						

FM TRANSLATORS WITHIN 200 Km. CHANNELS 226 to 232

	- PASCO, WASHINGTON	N. 46 8 49	
CHANNEL CALL & CLASS STATUS	Owner/Applicant (m) (kw) (m) CITY HOTZ->AHAAT/ERP/AMSL	LATITUDE LONGITUDE	(deg) (km) AZIMUTH DIST
	Hartline Broadcasters Chelan WA RM 8265	47-51- 7 119-52-18	
93.5 Mhz. 228 D K228CX FX LIC		47-30-33 120-14-22	332.6 170.6
93.5 Mhz. 228 D NEW-T FX APP	Power Du Pree Broadcasting Company Yakima .140 687 WA BPFT 870331YJ	46-31-40 120-31- 6	292.8 109.2
93.7 Mhz. 229 C2 FR ADD	Hartline Broadcasters East Wenatchee WA RM 8265	47-25-18 120-22-53	327.8 167.5
93.9 Mhz. 230 C2 FR DEL	Hartline Broadcasters Ephrata WA RM 8265	47-13-16 119-31-12	348.8 121.7
94.3 Mhz. 232 D K232CV FX LIC	T & J Broadcasting, Inc. Ellensburg WA BLFT 940519TD 348 .036 982	46-53-13 120-26-26	311.1 125.2
	State of Oregon, etc. Hood River .040 797 OR BLFT 870403TA	45-44-32 121-34-46	256.2 189.1
	Columbia Theatre Company Pendleton .009 353 OR BLFT 860327TZ	45-40- 4 118-46-52	148.0 62.8
94.3 Mhz. 232 D K232AN FX LIC	Peoples TV Association, Inc. Ephrata, etc041 616 WA BLFT 8106011E	47-18-56 119-35- 8	347.5 133.0

>> END OF FM WITHIN 200 km STUDY <<

KENNETH WILLIAMS, Jr., P.E. - Consulting Engineer - Tacoma, WA